

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

KYLE AUBREY BELL,

Movant,

v.

UNITED STATES OF AMERICA,

Respondent.

HABEAS CORPUS

28 U.S.C. § 2255

CIVIL ACTION FILE NO.

1:16-CV-2367-WSD-JKL

CRIMINAL ACTION FILE NO.

1:96-CR-0127-WSD-JKL

FINAL REPORT AND RECOMMENDATION

Movant has filed a Motion to Correct, Vacate, and/or Set-Aside Pursuant to Title 28 U.S.C. § 2255. [Doc. 422.] Movant previously filed a § 2255 motion in 2001, which was denied as untimely. [Docs. 355, 357.] Movant filed a second § 2255 motion in 2007, which was denied on the basis that it was successive and untimely. [Docs. 376, 379.]

Movant may not file a second or successive § 2255 motion without first obtaining permission to do so from the United States Court of Appeals for the Eleventh Circuit. *See* 28 U.S.C. § 2255(h). Without such prior authorization, this court “lacks jurisdiction to consider a second or successive motion.” *Farris v. United States*, 333 F.3d 1211, 1216 (11th Cir. 2003). Movant sought permission to file the present motion, but his application was denied by order dated July 6, 2016.

[Doc. 424.] Accordingly, the undersigned **RECOMMENDS** that this case be **DISMISSED** for lack of jurisdiction.

In the absence of subject-matter jurisdiction, 28 U.S.C. § 2253(c) does not apply to this case, and the undersigned offers no recommendation regarding a Certificate of Appealability. *See Walker v. United States*, 367 F. App'x 67, 68-69 (11th Cir. 2010) (citing *Hubbard v. Campbell*, 379 F.3d 1245, 1247 (11th Cir. 2004)).

The Clerk is **DIRECTED** to terminate the referral of this case to the undersigned.

SO RECOMMENDED AND DIRECTED this 13th day of July, 2016.



JOHN K. LARKINS III
UNITED STATES MAGISTRATE JUDGE